

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CYWEE GROUP LTD.,

Plaintiff,

v.

HTC CORPORATION; and HTC AMERICA,
INC.,

Defendants.

CASE NO.: 2:17-cv-00932-JLR

JURY TRIAL DEMANDED

90-DAY JOINT STATUS REPORT

HTC CORPORATION, and HTC AMERICA,
INC.,

Third-Party Plaintiffs,

v.

CYWEE MOTION GROUP LTD.,

Third-Party Defendant.

Pursuant to the Court's August 19, 2019 Order (ECF No. 146), Plaintiff CyWee Group Ltd. ("CyWee Group"), Defendants and Third-Party Plaintiffs HTC Corporation and HTC America, Inc., and Third-Party Defendant CyWeeMotion Group Ltd. respectfully submit the following joint status report:

As shown in the table below, on January 9, 2020, the PTAB held that the claims subject to two IPRs filed by Google (the "Google IPRs") are invalid:

| Asserted Patent | IPR Case No. | Claims Held Invalid |
|--------------------------|---------------|---------------------|
| 8,441,438 ("438 patent") | IPR2018-01258 | 1, 3–5 |
| 8,552,978 ("978 patent") | IPR2018-01257 | 10, 12 |

CyWee appealed the PTAB's final written decisions in the Google IPRs to the Federal Circuit and those appeals (Case Nos. 2020-1565, 2020-1567) are currently pending. Oral argument has been scheduled for January 4, 2021.

In the instant case, CyWee asserts infringement of claims 1, 3–5, 14–17, and 19 of the '438 patent, and claims 10 and 12 of the '978 patent. Asserted claims 14–17 and 19 of the '438 patent are not subject to the Google IPRs.

Those claims are however subject to an IPR filed by ZTE (the "ZTE IPR"), as shown in the table below:

| Asserted Patent | IPR Case No. | Instituted Claims |
|-----------------|---------------|--------------------|
| 8,441,438 | IPR2019-00143 | 1, 4, 5, 14–17, 19 |

Unlike the proposed amendments in the Google IPRs, the proposed amendments in the ZTE IPR are subject to the PTAB's pilot program concerning motions to amend, as provided for in 84 Fed. Reg. 9,497 (Mar. 15, 2019). On December 5, 2019 the PTAB issued Preliminary Guidance on Patent Owner's Motion to Amend (the "Guidance"). In the Guidance, the PTAB preliminarily held that proposed amended claims 20, 21, and 22 (corresponding to original claims 1, 5, and 14) are valid. On December 20, 2019, CyWee filed a revised motion to amend, proposing amendments to claims 20, 21, 22, 23, and 24 (corresponding to original claims 1, 5, 14, 15, and 19). Oral argument took place on November 18, 2020. On November 4, 2020, the PTAB issued an order in the ZTE IPR, which adjusted the due date for it to issue a final written decision to January

1 18, 2021.

2
3 Dated December 4, 2020

Respectfully submitted,

4 /s/ Carmen E. Bremer

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25 Dated: December 4, 2020

26 /s/ Albert Shih

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*Attorneys for Defendants and Third-Party Plaintiffs
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CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: 12/4/2020

/s/Carmen E. Bremer

Carmen E. Bremer